

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MICHELLE ADAMS,

Plaintiff,

-V-

EQUINOX HOLDINGS, INC., *et al.*,

Defendants.

19 Civ. 8461 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

The Complaint in this action was filed on August 25, 2019, in the Supreme Court of the State of New York, New York County. Dkt. 1 at 1. Defendant Equinox Holdings, Inc. removed the action to federal court in this District on September 11, 2019. *Id.* However, Defendants Elvira Bolotbekova and Alex Songolo have not appeared in this action, and neither this docket, nor the docket of the Supreme Court of the State of New York, reflects whether either of these Defendants has been served. Pursuant to Federal Rule of Civil Procedure 4(m), “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m).

Accordingly, Plaintiff is ordered to file a status letter by March 3, 2023, describing (1) whether service of the summons and Complaint has been made on Bolotbekova and Songolo, and if not, (2) why good cause exists to excuse Plaintiff's failure to serve Defendant for over three and a half years. *See* Fed. R. Civ. P. 4(m) ("[I]f the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period."). The Court reminds Plaintiff that "[t]o establish good case a plaintiff must demonstrate that despite diligent attempts, service could not be

made due to exceptional circumstances beyond his or her control.” *Deptula v. Rosen*, 558 F. Supp. 3d 73, 75 (S.D.N.Y. 2021) (internal quotation marks omitted).

Plaintiff must file this letter even if service of the Summons and Complaint is or has already been made on Bolotbekova and Songolo. If Bolotbekova and Songolo have been served, Plaintiff must also file proof of service on the docket no later than March 3, 2023. If no such letter is filed, the Court will dismiss the case as to Bolotbekova and Songolo for failure to prosecute.

SO ORDERED.

Dated: February 28, 2023  
New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", written in a cursive style.

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JOHN P. CRONAN  
United States District Judge